

### **REMARKS**

The present amendment is intended to be fully responsive to the Office Action having a mailing date of May 15, 2007, wherein claims 1-26 have been rejected and are currently pending. By this amendment, claims 1 has been amended and no claims have been canceled. Applicant submits that no new matter has been added by this amendment and that support for the claims, as amended, may be found throughout the specification and drawings.

At least for the reasons set forth below, Applicant respectfully traverses the foregoing rejections. Further, Applicant believes that there are also reasons other than those set forth below why the pending claims are patentable, and reserve the right to set forth those reasons, and to argue for the patentability of claims not explicitly addressed herein, in future papers. Applicants respectfully requests reconsideration of the present application in view of the above amendment, the new claims, and the following remarks.

Applicant respectfully thanks the Examiner for the withdrawal of the objections to claims 6 and 7 for informalities and of the rejections of claims 9, 10, 22 and 23 under 35 U.S. USC § 112 as being indefinite in the above-referenced Office Action.

### **Claim Objections**

Claims 1-13 were objected to due to informalities. Applicant has amended claim 1 to address the informalities raised by the Examiner. Withdrawal of the objection is therefore respectfully requested.

### **Claim Rejections – 35 U.S.C. § 103**

#### **A. Privatera in view of Moore**

Claims 1-8 and 14-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Privatera et al. (U.S. Patent No. 6,273,862) in view of Moore (U.S. Patent No. 2,866,457). Applicant respectfully traverses the rejection.

It is well established that “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j). However, Privatera et al, alone or in combination with Moore, fails to teach all of the limitations in claims 1-8 and 14-21.

More specifically, the Examiner contends that Privatera et al. discloses a vacuum assisted biopsy system that communicates saline and/or an anesthetic to a piercer. As admitted by the Examiner, Privatera et al. does NOT disclose a fluid connector that includes two check valves configured to provide two fluids in communication with the biopsy device. The Examiner further contends that Moore teaches a fluid connector for the purpose of simplifying and saving time in surgical procedures that includes two check valves for providing fluid communication from one of two fluid sources to an output of the fluid connector.

Applicant respectfully requests reconsideration of this rejection in view of the amendments made in above to Claim 1 and the arguments presented below.

As currently amended, Claim 1 claims a fluid connector comprising a body member having a first input port in fluid communication with the first fluid source, a first check valve integrated within the body member and in fluid communication with the first input port, a second input port in fluid communication with the second fluid source, a second check valve integrated within the body member and in fluid communication with the second inlet port and an outlet port in fluid communication with the vacuum assisted biopsy device.

As previously presented, Claim 14 claims a body member having a first input port, a second input port and an output port, wherein the first input port includes a first check valve integrated therein and in fluid communication with the first fluid source, the second input port includes a second check valve integrated therein and in fluid communication with the second fluid source and the output port is provided in communication with the vacuum assisted biopsy device.

Privatera et al. certainly does not teach, disclose or suggest a fluid connector comprising a body member with an integral first check valve or an integral second check valve, as claimed by Applicant in Claims 1 and 14.

In the outstanding Office Action, the Examiner states that the fluid connector of Moore includes elements (9, 11, 12, 13 and 22), including tubing that connects check valve 9 to the body 11, and that, as result of that connection, the valves in Moore are integrated into the fluid connector. However, the configuration of Moore still fails to teach or suggest the present invention as claimed in Claims 1 and 14, since, the connector still fails to teach, disclose or suggest a body member with integral first and second check valves. At best, Moore teaches a body member 11 with remote check valves.

Moreover, Claims 1 and 14 both recite that the first and second inlet ports are integral with the body. Under the Examiner's application of Moore, the first and second inlet ports are remote from body member, thus teaching away from Applicants' claims.

Therefore, Moore and Privatera, either alone or in combination fail to teach or suggest the present invention as claimed in Claims 1 and 14.

Claims 2-8 are dependant upon claim 1 and therefore include all of the limitations of Claim 1 that distinguish Claim 1 from Moore and Privatera. Similarly, Claims 15-21 are dependant upon claim 14 and therefore include all of the limitations of Claim 1 that distinguish Claim 14 from Moore and Privatera. For at least this reason, the Examiner is respectively requested to withdraw the rejection of Claims 1-8 and 14-21 under 35 U.S.C. 103(a) over Privatera in view of Moore.

Furthermore, the dependent claims each contain additional features that are also not found in either reference. For example, claims 3 and 16 require the second check valve to include a resiliently compressible valve member. While the Examiner states that the check valves of Moore "comprise resiliently compressible valve members (around and including spring 25 in figure 1) secured in a valve seat (around 25 in figure 1)", Moore teaches a valve member (disc 31) biased into

position by a spring (25). (Moore Col. 2, lines 24-28). No where does Moore state that the valve member of Moore itself may be resiliently compressible. The Examiner argues that Moore's valve member is resilient by referring to the valve member as including the elements "around and including spring 25", but defining the spring into the term valve member is an improper retrospective reconstruction of the teaching of Moore. Moore nowhere teaches or suggests resiliency in the component that actually performs the valving function – the disc 31 – but instead explicitly teaches that the valve member requires a second component to bias it into position. For this additional reason, claims 3 and 16 should be allowed.

**B. Privatera in view of Moore and Turturro**

Claims 11, 13, 24, and 26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Privatera et al. (U.S. 6,273,862) as modified by Moore (U.S. 2,866,457), as applied to claims 1-8 and 14-21 above, and further in view of Turturro et al. (U.S. 6,331,165), newly cited. Applicant respectfully traverses the rejection.

The examiner states that "Tuturro teaches luer fittings (column 18, lines 33-41) for the purpose of providing quick and easy connection and disconnection."

However, Tuturro does not make up for the deficiencies in the teachings of Privatera and Moore described above. Tuturro nowhere teaches, discloses or suggests the elements of a fluid connector comprising a body member with an integral first check valve or an integral second check valve, as claimed by Applicant in each of these claims. Therefore, for at least the reasons stated above, Claims 11, 13, 24, and 26 are allowable over any combination of Tuturro, Privatera and Moore.

**C. Miller in view of and Moore**

Claims 1-10, 12, 14-23 and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Miller 35 al. (U.S. 2002/0082519) in view of Moore (U.S. 2,866,457). Applicant respectfully traverses the rejections.

The Examiner admits that, while Miller teaches a vacuum assisted biopsy device having a first fluid source with a first check valve, it does not illustrate a second fluid source. Indeed, the Examiner then proceeds to state that a second fluid source “is possible”. However, Moore does not teach or suggest how that second fluid source is provided, and therefore neither teaches nor suggests a second check valve for the second fluid source.

Further, as described above Independent Claims 1 and 14, recite a body member having a first input port, a second input port, a first check valve and a second check valve integrated therein. Each of Claims 2-10, 12, 15-23 and 25 are dependant on either claim 1 or claim 14 and therefore also include this feature. Miller nowhere teaches or suggests a second check valve. Miller nowhere teaches or suggests a body member having a first and a second input port. Miller nowhere teaches or suggests a body member with two check valves integrated therein.

Nor does Moore provide the claimed features that are missing in Miller. The Examiner states that Moore has a fluid connector including “two check valves (9, 11) for providing fluid communication from one of two fluid sources (6, 26) to an output of the fluid connector.” However, for the reasons presented previously, Moore nowhere teaches or suggests a body member having a first and a second input port and a first and a second check valve integrated therein. Therefore, for at least the reasons stated above, 1-10, 12, 14-23 and 25 are allowable over any combination of Moore and Miller.

### **CONCLUSION**

Reconsideration and allowance are respectfully requested. In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 65937-0045 from which the undersigned is authorized to draw.

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Amendment dated July 16, 2007 (the 15<sup>th</sup> falling on a Sunday)  
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Dated: July 16, 2007 (the 15<sup>th</sup> falling on a Sunday)      Respectfully submitted,

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